

110TH CONGRESS
1ST SESSION

S. 1330

To amend the Social Security Act to provide for wage insurance for dislocated workers.

IN THE SENATE OF THE UNITED STATES

MAY 8, 2007

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Social Security Act to provide for wage insurance for dislocated workers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Worker Empowerment Act”.

6 (b) TABLE OF CONTENTS.—The table of contents is
7 as follows:

Sec. 1. Short title; table of contents.

TITLE I—REEMPLOYMENT ADJUSTMENT ASSISTANCE

Sec. 101. Establishment of programs.

Sec. 102. Administrative costs.

Sec. 103. Technical assistance.

Sec. 104. Reports to Congress.

Sec. 105. Effective date.

TITLE II—WAGE INSURANCE CONTRIBUTIONS

Sec. 201. Wage insurance contributions.

1 **TITLE I—REEMPLOYMENT** 2 **ADJUSTMENT ASSISTANCE**

3 **SEC. 101. ESTABLISHMENT OF PROGRAMS.**

4 (a) IN GENERAL.—Section 303 of the Social Security
5 Act (42 U.S.C. 503) is amended by adding at the end the
6 following:

7 “(1)(1) Each State (through the State agency charged
8 with the administration of the State law of such State)
9 shall, not earlier than January 1, 2009, and not later than
10 2 years after the date of the enactment of this subsection,
11 implement a reemployment adjustment assistance pro-
12 gram that provides the benefits described in paragraph
13 (2).

14 “(2)(A) A State shall use the funds provided to the
15 State under section 101(b) of the Worker Empowerment
16 Act to pay to an individual described in paragraph (3) the
17 amount equal to 50 percent of the amount by which—

18 “(i) the wages received by such individual at
19 the time of the separation described in paragraph
20 (3)(A), as certified by the State in accordance with
21 subparagraph (B), exceeds (if at all)

1 “(ii) the wages received by such individual from
 2 reemployment, as certified by the State in accord-
 3 ance with subparagraph (C).

4 “(B) For purposes of subparagraph (A)(i)—

5 “(i) the wages received by an individual at the
 6 time of separation shall be computed based on the
 7 wages received by such individual for the 52-week
 8 period ending before the date of separation; and

9 “(ii) a certification under subparagraph (A)(i)
 10 as to the amount of those wages so received shall be
 11 based on (I) information collected directly from the
 12 person or persons employing such individual during
 13 the 52-week period before the date of separation,
 14 (II) statements of earnings submitted by the indi-
 15 vidual (as provided to such individual by the person
 16 or persons referred to in subclause (I)), or (III) ap-
 17 plicable wage data collected by the State.

18 “(C) For purposes of subparagraph (A)(ii)—

19 “(i) the wages received by an individual from
 20 reemployment—

21 “(I) shall be initially certified using wages
 22 received for the individual’s first full week of re-
 23 employment; and

1 “(II) shall thereafter be periodically recer-
2 tified, to reflect any changes in wages, not more
3 than quarterly; and

4 “(ii) a certification under subparagraph (A)(ii)
5 as to the amount of wages received from reemploy-
6 ment shall be based on (I) statements of earnings
7 submitted by the individual (as provided by the re-
8 employing entity) or (II) applicable wage data col-
9 lected by the State.

10 “(D)(i) To the extent that a State makes its certifi-
11 cations under subparagraph (A)(i) on the basis of infor-
12 mation obtained pursuant to subparagraph (B)(ii)(I) or
13 (II), the State shall regularly conduct random audits
14 against relevant information obtained pursuant to sub-
15 paragraph (B)(ii)(III).

16 “(ii) To the extent that a State makes its certifi-
17 cations under subparagraph (A)(ii) on the basis of infor-
18 mation obtained pursuant to subparagraph (C)(ii)(I), the
19 State shall regularly conduct random audits against rel-
20 evant information obtained pursuant to subparagraph
21 (C)(ii)(II).

22 “(E)(i) Notwithstanding any other provision of this
23 paragraph—

24 “(I) for purposes of computing benefits in the
25 case of an individual to whom clause (ii) applies,

1 subparagraph (A) shall be applied by substituting
2 the applicable percentage under clause (ii)(II) for
3 ‘50 percent’; and

4 “(II) for purposes of computing benefits in the
5 case of an individual to whom clause (iii) applies,
6 subparagraph (A) shall be applied by substituting
7 the applicable percentage under clause (iii)(II) for
8 ‘50 percent’.

9 “(ii)(I) This clause applies in the case of any indi-
10 vidual whose weekly wages at the time of separation (de-
11 termined based on the amount most recently certified with
12 respect to such individual under subparagraph (A)(i)) ex-
13 ceed the contribution and benefit base (as determined
14 under section 230 of the Social Security Act) which is ef-
15 fective with respect to the year which includes the last day
16 of the 52-week period on the basis of which weekly wages
17 are computed.

18 “(II) The applicable percentage under this subclause
19 is, with respect to any individual, the percentage obtained
20 by subtracting from 50 percent the product of 2.5 times
21 the lesser of the percentage by which the individual’s
22 weekly wages at the time of separation (as described in
23 subclause (I)) exceeds the contribution and benefit base
24 (as so described) or 20 percent.

1 “(iii)(I) This clause applies in the case of any indi-
 2 vidual whose weekly wages from reemployment (deter-
 3 mined based on the amount most recently certified with
 4 respect to such individual under subparagraph (A)(ii)) are
 5 less than 50 percent of the median of weekly wages within
 6 the individual’s State (determined in accordance with any
 7 regulations prescribed by the Secretary of Labor), except
 8 as provided in subclause (III).

9 “(II) The applicable percentage under this subclause
 10 is, with respect to any individual, the percentage equal to
 11 the sum of 50 percent plus one-quarter of the number of
 12 percentage points by which the individual’s weekly wages
 13 from reemployment (as described in subclause (I) and ex-
 14 pressed as a percentage relative to the median of weekly
 15 wages within the individual’s State (as so described)) is
 16 less than 50 percent.

17 “(III) This clause shall not apply in the case of any
 18 individual who is subject to clause (ii).

19 “(F) Benefits under any program described in para-
 20 graph (1) shall be payable on at least a monthly basis.

21 “(3) An individual shall not be eligible for benefits
 22 under any program described in paragraph (1) unless such
 23 individual—

24 “(A) is separated from employment with an em-
 25 ployer that employed such individual continuously

1 for at least the 2-year period before the date of sep-
2 aration either—

3 “(i) involuntarily (other than for cause); or

4 “(ii) voluntarily under circumstances which
5 would, by virtue of the terms of a collective bar-
6 gaining agreement, satisfy the relevant State
7 law requirements relating to the type of separa-
8 tion from employment that is required in order
9 to be eligible for unemployment compensation;

10 “(B) is reemployed for substantially the same
11 number of hours each pay period as at the time of
12 separation; and

13 “(C) is not reemployed by the employer from
14 which the individual was separated.

15 “(4) The benefits described in paragraph (2) shall
16 not, in the case of any individual, be payable—

17 “(A) by virtue of any separation, beyond the
18 date that occurs 2 years after the date of such sepa-
19 ration; or

20 “(B) in an amount exceeding \$10,000 for either
21 year of the 2-year period that begins on the date of
22 such separation.

23 “(5) For purposes of this subsection—

1 “(A) the term ‘wages’ means all cash or cash
2 equivalent remuneration (as defined by the Secretary
3 of Labor) for employment, excluding any tips;

4 “(B) the term ‘employment’ means any service
5 performed within the United States for an employer
6 by an individual who is a citizen of the United
7 States or who is authorized to work in the United
8 States; and the term ‘United States’, when used in
9 this subparagraph in a geographical sense, includes
10 the States, the District of Columbia, the Common-
11 wealth of Puerto Rico, and the Virgin Islands;

12 “(C) the term ‘employer’ includes each em-
13 ployer, as defined by the State law of the State con-
14 cerned; and

15 “(D) the term ‘pay period’, with respect to an
16 individual, means a period (of not more than 31 con-
17 secutive days) for which a payment of remuneration
18 is ordinarily made to the individual by the person
19 employing such individual.

20 “(6) Not later than December 31, 2008, the Sec-
21 retary of Labor shall by regulation establish guidelines to
22 provide for the uniform application of paragraph (3).”.

23 (b) PAYMENTS TO STATES.—

24 (1) IN GENERAL.—There shall be paid to each
25 State which has a reemployment adjustment assist-

1 ance program that (in the judgment of the Secretary
2 of Labor) meets the requirements of section 303(l)
3 of the Social Security Act, as amended by subsection
4 (a), an amount equal to 100 percent of the benefits
5 paid to individuals by such State under such pro-
6 gram.

7 (2) ESTIMATION, FREQUENCY, ETC. OF
8 AMOUNTS PAYABLE.—Sums payable to any State
9 under this subsection shall be payable, either in ad-
10 vance or by way of reimbursement (as determined by
11 the Secretary of Labor), in such amounts as the
12 Secretary estimates the State will be entitled to re-
13 ceive under this subsection for each calendar month,
14 reduced or increased, as the case may be, by any
15 amount which the Secretary finds that the estimates
16 of the Secretary for any prior calendar month were
17 greater or less than the amounts which should have
18 been paid to the State. Estimates shall be made on
19 such basis as the Secretary considers appropriate.

20 (3) CERTIFICATION AND PAYMENT OF
21 AMOUNTS.—The Secretary of Labor shall, from time
22 to time, certify to the Secretary of the Treasury the
23 sum payable to each State under this subsection.
24 The Secretary of the Treasury, prior to audit and
25 settlement by the Government Accountability Office,

1 shall make payments to the State in accordance with
2 the certification from amounts available in the Wage
3 Insurance Trust Fund under section 9511 of the In-
4 ternal Revenue Code of 1986.

5 (4) LIMITATION ON USE OF AMOUNTS RE-
6 CEIVED.—Money paid to a State under this sub-
7 section may be used solely for the purpose of paying
8 benefits described in paragraph (1). Money so paid
9 which is not used for such purpose shall be returned,
10 at the time specified by the Secretary of Labor, to
11 the Treasury of the United States and credited to
12 the Wage Insurance Trust Fund.

13 (5) STATE DEFINED.—For purposes of this
14 subsection, the term “State” has the meaning given
15 such term under section 205 of the Federal-State
16 Extended Unemployment Compensation Act of
17 1970.

18 (6) RULE OF CONSTRUCTION.—Nothing in this
19 subsection shall prevent or limit any distribution of
20 amounts from the Wage Insurance Trust Fund for
21 reasonable costs associated with the implementation
22 and operation of reemployment adjustment assist-
23 ance programs (as described in section 303(l) of the
24 Social Security Act) or for any other purpose (other

1 than the payment of benefits) allowable under sec-
2 tion 9511 of the Internal Revenue Code of 1986.

3 (c) CONFORMING AMENDMENT.—Section 303(a) of
4 the Social Security Act (42 U.S.C. 503(a)) is amended—

5 (1) by striking the period at the end of para-
6 graph (10) and inserting “; and”; and

7 (2) by adding at the end the following:

8 “(11) A reemployment adjustment assistance
9 program that meets the requirements of subsection
10 (l).”.

11 **SEC. 102. ADMINISTRATIVE COSTS.**

12 Section 302(a) of the Social Security Act (42 U.S.C.
13 502(a)) is amended by striking the period at the end of
14 the first sentence and inserting “and 100 percent of so
15 much of the reasonable expenditures of the State as are
16 attributable to the costs of the implementation and oper-
17 ation of its reemployment adjustment assistance program
18 (as described in section 303(l)).”.

19 **SEC. 103. TECHNICAL ASSISTANCE.**

20 The Secretary of Labor shall provide technical assist-
21 ance and advice to assist the States in implementing the
22 reemployment adjustment assistance programs required
23 under the amendments made by this title.

1 **SEC. 104. REPORTS TO CONGRESS.**

2 (a) INITIAL REPORT.—Not later than 3 years after
3 the date of the enactment of this Act, the Secretary of
4 Labor shall submit to Congress a report on the operation
5 and effectiveness of the reemployment adjustment assist-
6 ance programs required under the amendments made by
7 this title.

8 (b) ANNUAL REPORTS.—Not later than 4 years after
9 the date of the enactment of this Act, the Secretary of
10 Labor shall submit to Congress the first of 5 annual re-
11 ports. Each such report shall include a detailed analysis
12 of the following:

13 (1) The average annual income from wages that
14 individuals receiving reemployment adjustment as-
15 sistance from programs under section 303(l) of the
16 Social Security Act (hereinafter “beneficiaries of the
17 Worker Empowerment Act”) earned in the 2 years
18 prior to employment dislocation, and the average
19 quarterly income of such individuals in the 2 years
20 following reemployment.

21 (2) The average amount of quarterly benefits
22 provided to beneficiaries of the Worker Empower-
23 ment Act from programs under section 303(l) of the
24 Social Security Act, and the average duration of
25 those benefits.

1 (3) The average duration of unemployment ex-
 2 perienced by beneficiaries of the Worker Empower-
 3 ment Act before becoming eligible for benefits de-
 4 scribed in paragraph (2).

5 (4) Whether beneficiaries of the Worker Em-
 6 powerment Act accepted lower-wage employment
 7 that they would otherwise have refused (if this Act
 8 had not been enacted), and whether such employ-
 9 ment would have been refused in the absence of the
 10 receipt of unemployment compensation.

11 (5) To what extent beneficiaries of the Worker
 12 Empowerment Act displaced lower-skilled workers
 13 seeking the same job.

14 (6) To what extent employers paid lower wages
 15 than they would otherwise have because of the im-
 16 plementation of the reemployment adjustment assist-
 17 ance programs described in section 303(l) of the So-
 18 cial Security Act.

19 **SEC. 105. EFFECTIVE DATE.**

20 Nothing in this title or in any amendment made by
 21 this title shall be considered to permit or require the pay-
 22 ment of reemployment adjustment assistance benefits—

23 (1) based on any separation from employment
 24 taking effect before January 1, 2009; or

1 (2) to supplement remuneration for employment
 2 performed in any pay period beginning before the
 3 commencement date of the program under which
 4 such benefits would be payable.

5 **TITLE II—WAGE INSURANCE** 6 **CONTRIBUTIONS**

7 **SEC. 201. WAGE INSURANCE CONTRIBUTIONS.**

8 (a) IN GENERAL.—Subtitle C of the Internal Rev-
 9 enue Code of 1986 (relating to employment taxes) is
 10 amended by adding at the end the following new chapter:

11 **“CHAPTER 26—WAGE INSURANCE** 12 **CONTRIBUTIONS**

“CHAPTER 26—WAGE INSURANCE CONTRIBUTIONS

“Sec. 3601. Rate of tax.

13 **“SEC. 3601. RATE OF TAX.**

14 “(a) IN GENERAL.—In addition to other taxes, there
 15 is hereby imposed on every employer an excise tax, with
 16 respect to having individuals in his employ, equal to 0.06
 17 percent of the wages (as defined in section 3401(a)) paid
 18 by him with respect to employment.

19 “(b) LIMITATION.—The amount of wages taken into
 20 account under subsection (a) with respect to an employee
 21 for a calendar year shall not exceed the contribution and
 22 benefit base (as determined under section 230 of the So-
 23 cial Security Act) which is effective with respect to such
 24 year.

1 “(c) APPLICABLE RULES.—For purposes of this
 2 chapter, rules similar to the rules of sections 3122, 3123,
 3 3125, 3126, and 3127 shall apply.”.

4 (b) ESTABLISHMENT OF WAGE INSURANCE TRUST
 5 FUND.—Subchapter A of chapter 98 of such Code (relat-
 6 ing to trust fund code) is amended by adding at the end
 7 the following:

8 **“SEC. 9511. WAGE INSURANCE TRUST FUND.**

9 “(a) CREATION OF TRUST FUND.—There is estab-
 10 lished in the Treasury of the United States a trust fund
 11 to be known as the ‘Wage Insurance Trust Fund’ (re-
 12 ferred to in this section as the ‘Trust Fund’), consisting
 13 of such amounts as may be appropriated or credited to
 14 the Trust Fund as provided in this section or section
 15 9602(b).

16 “(b) TRANSFERS TO TRUST FUND.—There is hereby
 17 appropriated to the Trust Fund an amount equivalent to
 18 the taxes received in the Treasury under section 3601.

19 “(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—
 20 Amounts in the Trust Fund shall be available without fur-
 21 ther appropriation to make expenditures to carry out—

22 “(1) section 303(l), and so much of section
 23 302(a), of the Social Security Act as relates to the
 24 implementation and operation of the program under
 25 such section 303(l), and

1 “(2) the Worker Empowerment Act.

2 “(d) AUTHORITY TO BORROW.—

3 “(1) IN GENERAL.—There are authorized to be
4 appropriated to the Trust Fund, as repayable ad-
5 vances, such sums as may be necessary to carry out
6 the purposes of the Trust Fund.

7 “(2) LIMITATION ON AGGREGATE ADVANCES.—

8 The maximum aggregate amount of repayable ad-
9 vances to the Trust Fund which is outstanding at
10 any one time shall not exceed an amount equal to
11 the amount which the Secretary estimates will be
12 equal to the sum of the amounts appropriated to the
13 Trust Fund under subsection (b) during the fol-
14 lowing 24 months.

15 “(3) REPAYMENT OF ADVANCES.—

16 “(A) IN GENERAL.—Advances made to the
17 Trust Fund shall be repaid, and interest on
18 such advances shall be paid, to the general fund
19 of the Treasury when the Secretary determines
20 that moneys are available for such purposes in
21 the Trust Fund. Any amount transferred as a
22 repayment under this subsection shall be cred-
23 ited against, and shall operate to reduce, any
24 balance of advances repayable under this sub-
25 section.

1 “(B) RATE OF INTEREST.—Interest on ad-
 2 vances made to the Trust Fund shall be—

3 “(i) at a rate determined by the Sec-
 4 retary (as of the close of the calendar
 5 month preceding the month in which the
 6 advance is made) to be equal to the cur-
 7 rent average market yield on outstanding
 8 marketable obligations of the United
 9 States with remaining periods to maturity
 10 comparable to the anticipated period dur-
 11 ing which the advance will be outstanding,
 12 and

13 “(ii) compounded annually.”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Section 6302(b) of such Code is amended
 16 by inserting “26,” after “21,”.

17 (2) Section 6513(c) of such Code is amended by
 18 striking “or 24” and inserting “24, or 26”.

19 (3) Section 7507(d) of such Code is amended is
 20 amended by striking “chapter 21 or chapter 23” and
 21 inserting “chapter 21, 23, or 26”.

22 (4) Section 7509 of such Code by adding at the
 23 end the following new sentence: “The preceding sen-
 24 tence shall apply with respect to the tax imposed by
 25 chapter 26 in the same manner as such sentence ap-

1 plies to the tax imposed with respect to chapter
 2 21.”.

3 (d) CLERICAL AMENDMENTS.—

4 (1) The table of chapters for subtitle C of such
 5 Code is amended by adding at the end the following
 6 new item:

“CHAPTER 26. WAGE INSURANCE CONTRIBUTIONS.”.

7 (2) CONFORMING AMENDMENT.—The table of
 8 sections for subchapter A of chapter 98 of such
 9 Code is amended by adding at the end the following:

“Sec. 9511. Wage Insurance Trust Fund.”.

10 (e) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to wages paid after December 31,
 12 2007.

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